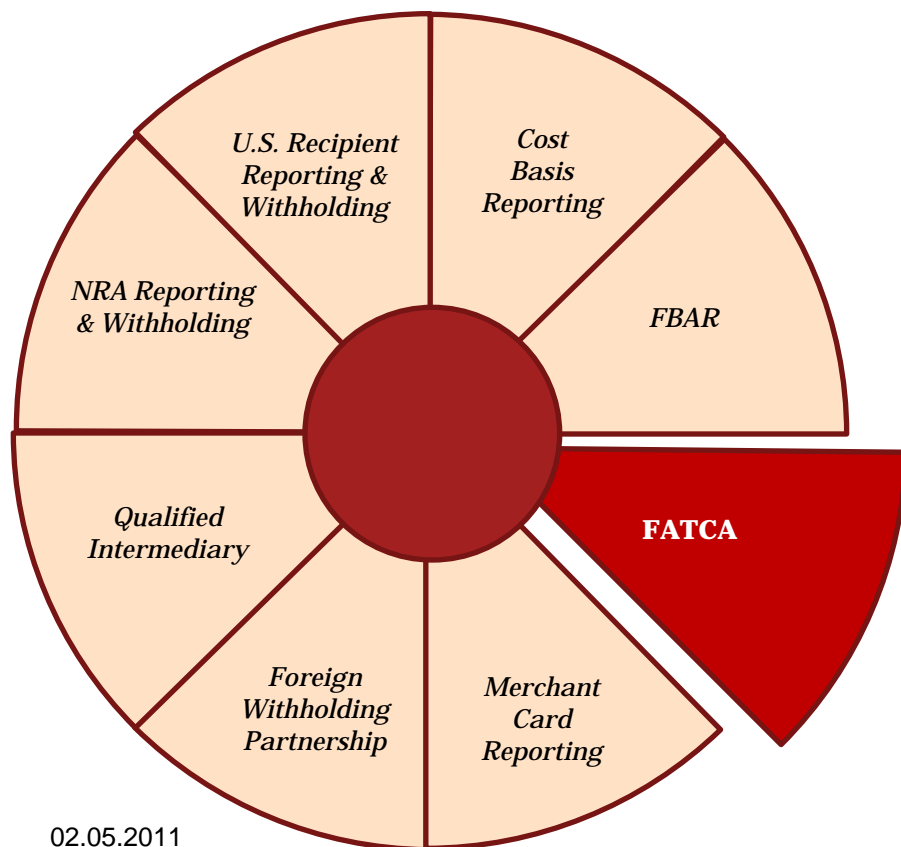


***FATCA – News  
betreffend Umsetzung im  
Asset-Management-  
Bereich***

**Christoph Schärer, Director,  
PwC Zürich**

# Background

## The need to meet ever increasing U.S. Tax Reporting & Withholding Obligations



### Specific Issues Addressed

- § High profile situations where Foreign Financial Institutions (“FFIs”) were used to shield U.S. taxpayers identity from the IRS.
- § Foreign banking privacy laws in certain tax havens were difficult to overcome and became a practical impediment to detecting tax evasion.

### Response

- § Creates a new withholding and reporting regime which is intended to provide the Internal Revenue Service (“IRS”) with additional tools which:
  - requires foreign financial institutions to perform a more exhaustive search for U.S. persons; and
  - requires non financial foreign entities to disclose substantial U.S. owners.

# The FATCA timeline



## Recap of Notice 2011-34

**Identification of  
preexisting US  
accounts**

**Passthru  
Payments**

**Deemed Compliant  
Status for Certain  
FFIs**

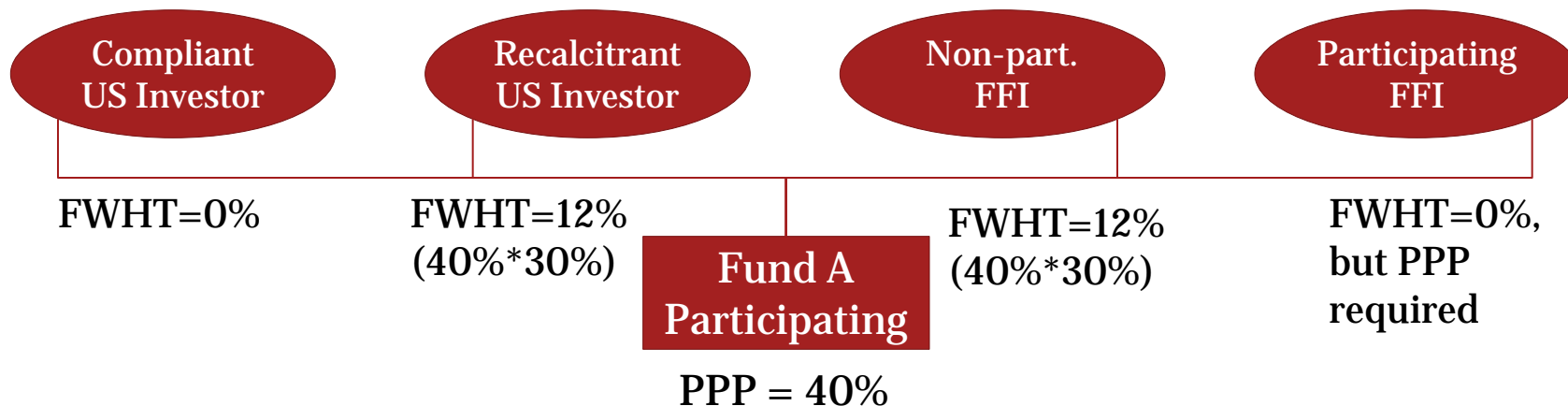
**Reporting on US  
Accounts**

**Requirements for  
QIs**

**Expanded Affiliated  
Group**

# Initial Guidance on Passthru payments

## Passthru Payment Percentage (PPP)



## Calculation

The sum of the **FFI's US assets** held on each of the last four "quarterly testing dates"



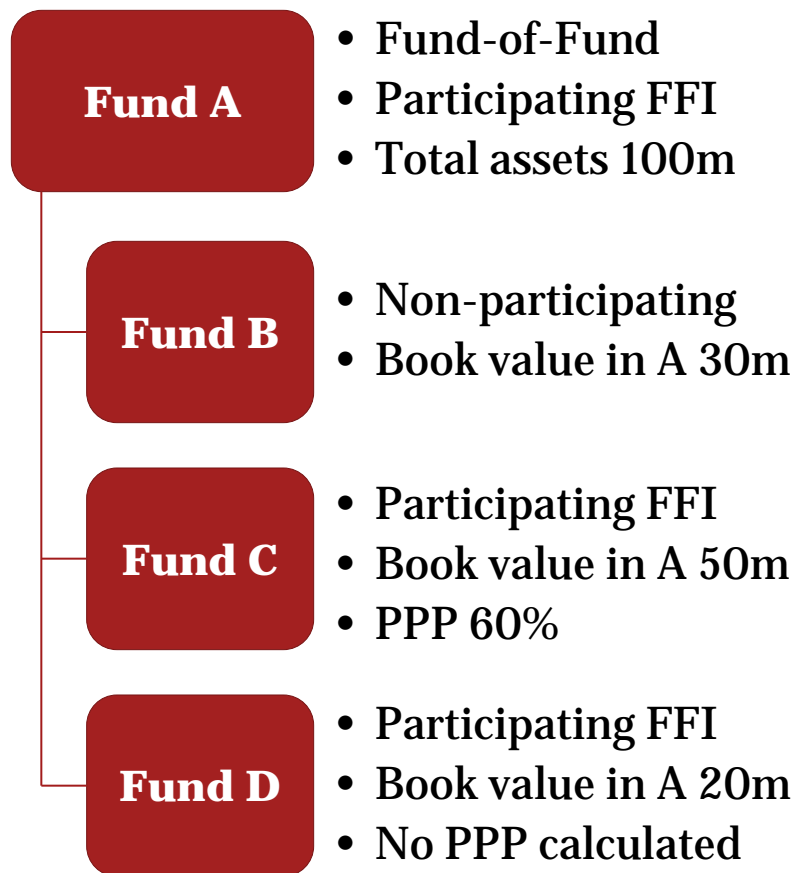
The sum of the **FFI's total assets** held on each of the last four "quarterly testing dates"

### Example:

- US assets 40m
  - Total assets 100m
- à **PPP 40%**

# Initial Guidance on Passthru payments

## Example



### Calculation of Fund A's US assets:

• <i>Fund B:</i>		
• Non-participating:	$30 \times 0\%$	<b>0</b>
• <i>Fund C:</i>		
• Participating:	$50 \times 60\%$	<b>30</b>
• <i>Fund D:</i>		
• Participating, but no PPP calculation:	$20 \times 100\%$	<b>20</b>
<hr/>		
<i>Fund A's US assets</i>		<b>50</b>

à **Fund A's PPP = 50%**

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# ***Deemed compliant status***

## Possibility for certain investment vehicles

- **Characteristics:**
  - Will be deemed to be compliant to the FATCA rules without an FFI agreement
  - Required to apply for this status
  - Recertification of deemed-compliant status every three years.
- **Deemed-compliant if the following three conditions are met:**
  - All direct holders of interests in the fund are participating FFIs or deemed-compliant FFIs holding on behalf of other investors, or an exempted FFI;
  - The fund prohibits the subscription for an acquisition of any interests in the fund by any person that is not a participating FFI, a deemed-compliant FFI or an exempted FFI; and
  - The fund certifies that any passthru payment percentages that it calculates and publishes will be done in accordance with the Notice.

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# ***FATCA Challenges in the Asset Management Area***

- I. Which entities in your group will qualify as FFI?
- II. Decision Point: Will you be FATCA compliant or not?
  - 1) **No:** No further action required, no implementation cost, but 30% FATCA withholding on certain US payments and gross proceeds; assess impact on your investors / reputation
  - 2) **Yes:** Requirements under FFI Agreement (not yet known in detail)
    - a. Identification / qualification of customers / investors  
-> Identification / qualification of other FFI investors
    - b. Identification / classification of US source payments
    - c. FATCA reporting and withholding, if applicable
    - d. Ensure your investments are FATCA compliant

# What Should You Be Doing Today?

Most firms are only just beginning to think about FATCA and how to organize.

